

REMARKS***Amendments to the Claims***

Upon entry of the foregoing amendment, claims 1-43 are pending in the application. Of the pending claims, claims 1, 18, 41 and 43 are independent.

This after final amendment is entered pursuant to 37 CFR Sec. 1.116(c), after the examiner's courteous agreement in a telephone interview on Aug. 6, 2003, wherein the above amendment was discussed and the examiner agreed to consider whether or not the amendment will materially assist in putting the claims in condition for allowance, pursuant to MPEP Sec. 714.12.

The required good and sufficient reasons why this amendment was not earlier presented are that the applicant has a good faith belief that the original claim does not read on the Benson reference cited in the final Office Action.

Movements of 12 millimeters are supported in the present application at page 2, lines 24-25; page 8, lines 11 -14; page 11, lines 5-8 and page 14 line 24 through page 15, line 13. That the movement be long, i.e. preferable 5 to 25 seconds, is supported at page 10, lines 10-11, and in original claims 11, 24 and 35 on pages 20, 23 and 24.

Remarks earlier filed remain pertinent, and are accordingly reproduced below.

Please note the clerical error in the Benson patent. A certificate of correction has been filed to correct it. The Office Action relies on it. It occurs at Col. 5, lines 40-45. The Benson device moves for 1 second and is still for 25 seconds. Figure 5 makes this clear, as do the claims, see claims 1 and 2, Col. 7 lines 49-63.

I. Claim Rejections under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1-2, 5, 7-9, 11, 15-18, 25-26, 29, 31-33, 35, 39-40 and 43 as being anticipated by U.S. Patent No. 5,816,653 ("the Benson patent"). The Benson reference is specifically directed to a lumbar support cycling program that moves in a way that is imperceptible to the seat occupant. See, '653 patent at column 2, lines 16-19 and column 6, lines 12-18. Accordingly, movements are short (6 to 10 millimeters, see, column 5, lines 61-65) and quick. The "pulse" of electricity activating a movement is 1 to 1.5 seconds long. This is apparent from figure 5, wherein the pulse with electricity is on, indicated by reference numerals 46, 58 and 64 is short. The period of time when the current is 0 between the pulses indicated by reference numerals 44, 60 and 66 is longer. The claims also reflect this, see, columns 1-3 and the specification at column 4, lines 61 through column 5, line 8. The paragraph referenced by the Examiner, at column 5, lines 36-48, has, unfortunately, a clerical error reversing the short and long periods.

Accordingly, the Benson patent discloses and claims a series of movements that are so short and quick that is to be imperceptible to the seat occupant. In contrast, the present application is to a control system for movements that are perceptible because they are long and slow. Movements of 12 millimeters and greater are perceptible. See, present application, page 2, lines 24-25. That the movement be long, i.e. preferable 10 to 25 seconds, is supported at original claims 11, 24 and 35.

The amendments to claim 1 structurally recite perceptible movement and further recite the range and duration defining perceptibility.

III. Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 6, 10, 30 and 34 as being unpatentable over the Benson patent. The current amendments recite structure that is patentably distinguishable over Benson by reciting, in claim 1 from which they depend, movement of perceptible length and duration. Benson actually teaches away from the claim by teaching imperceptible movement, *see above*.

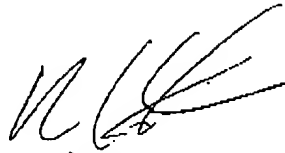
IV. Conclusion

Accordingly, Applicants respectfully submit that independent claims 1, 18, 41 and 43 are allowable over the prior art of record, including the Benson patent. For similar reasons, and for the additional reasons set forth above, Applicants urge that the dependent claims are also allowable.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



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